

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE FLORIDA
FAMILY LAW RULES OF PROCEDURE**

CASE NO:

**TWO-YEAR CYCLE REPORT OF THE
FAMILY LAW RULES COMMITTEE**

Henry H. Harnage, Chair, Family Law Rules Committee, and John F. Harkness, Jr., Executive Director, The Florida Bar, file this two-year cycle report of the Family Law Rules Committee under *Fla. R. Jud. Admin. 2.130(c)*.

The proposed amendments were adopted by the committee as follows:

Fla.Fam.L.R.P. 12.285: 16-0-1

Fla.Fam.L.R.P. Form 12.932: 15-1-1

As required by *Fla.R.Jud.Admin. 2.130(c)(2)B(c)(3)*, the proposed amendments have been reviewed by the Board of Governors of The Florida Bar. The Board approved the amendments by a vote of 30-0.

As required by *Rule 2.130(c)(2)*, a summary chart showing the proposals was published in the October 15, 2004, *Florida Bar News*, and the full text of the proposals was posted on The Florida Bar's website, with a request for comments. (See Appendix A). No comments were received.

The text of the proposed amendments in the two-column and full page formats is attached to this report. A diskette is also provided.

Amendments are proposed to *Rule 12.285*, Mandatory Disclosure, and *Form 12.932*, Certificate of Compliance with Mandatory Disclosure. The amendment to *Rule 12.285* adds a sentence in subdivision (i), Certificate of Compliance, requiring that the party swear or affirm under oath that disclosure is "complete, accurate, and in compliance with this rule," unless the party specifically indicates otherwise. *Form 12.932* is amended by adding a paragraph above the signature line stating that the party swears or affirms that disclosure is in compliance with the requirements of *Rule 12.285* and is complete, unless otherwise specifically indicated. A sentence has also been added stating that the party understands the penalties for knowingly making a

false statement, similar to those found in the financial affidavit forms, *Forms* 12.902(b) and (c), the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) Affidavit, *Form* 12.902(d), and the Child Support Guidelines Worksheet, *Form* 12.902(e). Finally, a verification is added below the signature block.

These amendments came from a committee member's suggestion that the certificate of mandatory disclosure be verified, as are the financial affidavit and child support guidelines worksheet. By requiring verification, the party is put on notice of the importance of accurate, complete, and full disclosure, as required by *Rule* 12.285. If disclosure is not complete, the party is allowed the option of stating, "with specificity" what is not being provided. These amendments are intended to facilitate full disclosure and ensure that the party will not later allege that he or she was unaware of the requirements of *Rule* 12.285. The amendments also emphasize that the burden of full disclosure is on the client, not the attorney. The amendments facilitate the full disclosure intended by *Rule* 12.285 and provide clear notice to the opposing party and attorney if items have been omitted or are not complete.

Editorial changes have made in several sections of *Rule* 12.285. In addition, some blank lines in *Form* 12.932 are double-underlined. The underlining of these blanks is missing in *West's Rules of Court*.

At the time that the proposals were published in the *Bar News*, posted on the website, and submitted to the Board of Governors, amendments were also proposed to *Rules* 12.310 and 12.410. These changes were made to correspond to amendments being proposed by the Civil Procedure Rules Committee as part of their two-year cycle. Subsequently, the amendments were withdrawn from their report to the court to allow them to be filed with other pending amendments arising from the report of The Florida Bar's Commission on the Legal Needs of Children. Consequently, the amendments to *Rules* 12.310 and 12.410 have been omitted from this report.

The committee respectfully requests that the court amend the Florida Family Law Rules of Procedure as proposed in this report.

Respectfully submitted _____.

HENRY H. HARNAGE
Chair
Family Law Rules Committee
1221 Brickell Avenue
Miami, FL 33131
305/579-0500
FLORIDA BAR NO.: 140835

JOHN F. HARKNESS, JR.
Executive Director
The Florida Bar
651 East Jefferson Street
Tallahassee, FL 32399-2300
850/561-5600
FLORIDA BAR NO.: 123390